

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF NEW MEXICO**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**THOMAS R. RODELLA and  
THOMAS R. RODELLA, JR.**

**Defendant.**

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**Case No.: 14-CR-2783 JB**

**DEFENDANT’S RESPONSE IN OPPOSITION TO UNITED STATES’ MOTION IN  
LIMINE TO PERMIT EVIDENCE OF RIO ARRIBA COUNTY SHERIFF OFFICE  
PROCEDURES AS PART OF THE TRAINING MATERIALS**

The Defendant, Thomas R. Rodella, by his attorneys, Robert J. Gorence and Louren Oliveros of Gorence & Oliveros, P.C., hereby submits his Response in Opposition to the United States’ Motion in Limine to Permit Evidence of Rio Arriba County Sheriff Office Procedures as part of the Training Materials [Doc. 45]. In support of his Response, Mr. Rodella states as follows:

The government’s motion is subject to Defendant’s Motion to Strike Expert Testimony of Manuel T. Overby [Doc. 50] (hereinafter referred to as “Motion to Strike”) and that motion is incorporated herein by reference. Mr. Rodella opposes the government’s motion to permit evidence of the Rio Arriba County Sheriff’s Office’s procedures for the same reasons stated in the motion to strike Mr. Overby’s testimony. The standard operating procedures of the Rio Arriba County Sheriff’s Office have no relevance to this case. This is simply an attempt by the government to introduce into evidence what the government has listed as Exhibit 14 (RASO Policies and Procedures”) and Exhibit 15 (DPS training materials) on the United States’

Proposed Exhibit List [Doc. 57]. While the government's motion states that the evidence will be used solely for the "limited purpose of demonstrating the defendant's state of mind and his knowledge," their expert disclosure of Manuel T. Overby demonstrates otherwise. The government intends to introduce these standard operating procedures, as well as the expert testimony of Mr. Overby, as evidence that Mr. Rodella did not conform to the standard operating procedures. For the reasons stated in Mr. Rodella's Motion to Strike, this evidence is not relevant and should not be admitted at trial.

WHEREFORE, for the foregoing reasons and the reasons stated in Defendant's Motion to Strike Expert Testimony of Manuel T. Overby [Doc. 50], Mr. Rodella requests that this Court exclude any references, testimony or evidence of the Rio Arriba County Sheriff's Office's procedures as well as any other training materials or standard operating procedures and for all such relief this Court deems just and proper.

Respectfully submitted,

/s/ Robert J. Gorence

Robert J. Gorence

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing pleading was emailed to counsel of record by CM/ECF this 12<sup>th</sup> day of September, 2014.

/s/ Robert J. Gorence

Robert J. Gorence